

## **MINUTES OF THE CITY COUNCIL**

**SAN JOSE, CALIFORNIA**

**TUESDAY, JANUARY 10, 1995**

The Council of the City of San Jose convened in regular session at 9:30 A.M.

Present: Council Members -Diaz, Diquisto, Fernandes, Johnson, Pandori, Powers,  
Shirakawa, Woody; Hammer.

Absent: Council Members -Fiscalini (excused).  
Vacant: District 10.

Upon motion unanimously adopted, Council recessed to a Closed Session at 9:35 A.M.. in Room 600 to confer with Legal Counsel pursuant to Government Code Section 54956.9; under Subsection (a) to discuss existing litigation in the cases of (1) Burroughs v. City of San Jose; (2) Citizens for a Better Environment v. City of San Jose, et al.; and to discuss anticipated litigation pursuant to Government Code Section 54956.9, under Subsection (b) to discuss one matter regarding significant exposure to litigation and under Subsection (c) to discuss one matter regarding initiation of litigation.

By unanimous consent, Council reconvened from the Closed Session and recessed at 11:15 A.M. and reconvened at 1:37 P.M. in the Council Chambers.

Present: Council Members -Diaz, Diquisto, Fernandes, Johnson, Pandori, Powers,  
Shirakawa, Woody; Hammer.

Absent: Council Members -Fiscalini (excused).  
Vacant: District 10.

### **INVOCATION**

Pastor Dick Taylor, New Community of Faith Church, delivered the invocation.  
(District 1)

### **PLEDGE OF ALLEGIANCE**

Mayor Hammer led the Pledge of Allegiance.

## ORDERS OF THE DAY

Upon motion by Council Member Powers, seconded by Council Member Johnson, and unanimously carried, findings were made pursuant to Government Code Section 54954.2 that emergency conditions arose subsequent to posting of the agenda, and the addition of Item 9f, the Orders of the Day and the Amended Agenda, were approved. Vote: 9-0-1-0-1. Absent: Fiscalini. Vacant: District 10.

## CEREMONIAL ITEMS

- 5a Swearing in of newly-elected Council Members, Trixie Johnson, District 1; David Pandori, District 3; Manny Diaz, District 5; George Shirakawa, Jr., District 7; and John Diquisto, District 9. (Mayor)**

Documents filed: None.

Discussion/Action: City Clerk Patricia L. O'Hearn conducted the swearing-in ceremony for Council Members Johnson, Pandori, Diaz, Shirakawa, and Diquisto. The new Council Members introduced family and friends in the audience and thanked their staff and supporters for assisting in their bid for election to the City Council. Mayor Hammer officially welcomed new Council Members Manny Diaz and John Diquisto to the San Jose City Council.

- 5b Presentation of plaques to Gordon Abbott for 10 years service, and to Susan George for 4 years service on the Council Salary Setting Commission; to Kathy Fowler for 3 years 3 months service, to Ronald McPherson for 3 years 3 months service, to Frances Nevarez for 3 years 3 months service, and to Hanh-Giao Nguyen for 3 years 3 months service on the MBE/WBE/DBE Committee. (Mayor)**

Documents filed: None.

Discussion/Action: Mayor Hammer presented plaques to Gordon Abbott and Susan George for 10 years and 4 years respectively on the Council Salary Setting

- 5b (Cont'd.)**

Commission; to Ronald McPherson and Hanh-Giao Nguyen for 3 years 3 months each on the MBE/WBE/DBE Committee. Plaques will be sent to Kathy Fowler and Frances Nevarez who were unable to be present.

**5c Presentation of a commendation to the San Jose Fire Department, Santa Clara Fire Department, and the Central Fire District, for their vigilant and courageous efforts to contain the devastating fire and save Santa Teresa Elementary School. (Powers)**

Documents filed: None.

Discussion/Action: Mayor Hammer was joined at the podium by Council Member Powers, who called Fire Chief Brooks to join the presentation of commendations to Acting Chief Bruce Staples, Deputy Chief John McMillan, Deputy Chief Gerald Kohlman and Battalion Chief Rob Piper of the San Jose Fire Department; Chief Gerald Simon and Battalion Chief David Busse of the Santa Clara Fire Department; and Chief Douglas Sporleder and Battalion Chief Steven Staump of the Central Fire District, for their heroic efforts to contain the devastating fire at Santa Teresa Elementary School; and Yvonne Cook, President of the Board of Trustees of the Oak Grove School District, expressed appreciation on behalf of the Board and the parents and teachers of Santa Teresa School for the assistance of the firefighters and the community in organizing classes to reopen in January.

**5d Recognition of the San Jose Sports Authority for successfully bidding for and being awarded the 1997 Track and Field National Outdoors Masters Championships which will be held August 7-10, 1997 at San Jose City College. (Mayor)**

Documents filed: None.

Discussion/Action: Mayor Hammer called President Buzz Schulte and Executive Director Dean Munro and members of the San Jose Sports Authority forward to recognize their efforts on behalf of the City in bringing outstanding sporting events to the City of San Jose. Mr. Schulte thanked the Mayor and City Council for the recognition and the athletes who assisted efforts to have San Jose chosen to host the Championship events.

Mayor Hammer welcomed former Council Members Lou Ryden and Claude Fletcher to the meeting.

**CONSENT CALENDAR**

Upon motion by Council Member Powers, seconded by Council Member Johnson, and unanimously carried, the Consent Calendar was approved and the below listed items taken as indicated. Vote: 9-0-1-0-1. Absent: Fiscalini. Vacant: District 10.

**Minutes for Approval**

**6a(1) Regular Meeting of November 1, 1994**

Documents filed: Minutes of November 1, 1994.

Discussion/Action: The minutes were approved. Vote: 9-0-1-0-1. Absent: Fiscalini.  
Vacant: District 10.

**Ordinances for Final Adoption**

**6b(1) ORD. NO. 24788 - Amends Section 11.28.1140 of Chapter 28 of Title 11 of the San Jose Municipal Code to modify the boundaries of the speed limit established by this Section.**

Documents filed: Proof of publication of title of Ordinance No. 24788 submitted by the City Clerk.

Discussion/Action: Ordinance No. 24788 was adopted. Vote: 9-0-1-0-1. Absent: Fiscalini. Vacant: District 10.

**Contracts/Agreements**

- 6e(1) (a) Adoption of appropriation ordinance amendments in the General Fund to provide \$206,335 in funding for the start up costs of a Paramedic Program.**
- (b) Approval of a fourth amendment to the agreement with Emergency Care Information Center (ECIC), a division of JEMS Corporation, expanding the scope of services and extending the term from December 31, 1994 to March 31, 1995, and increasing the compensation by \$17,000, from \$63,690 to \$80,690.**

**6e(1) (Cont'd.)**

- (c) Adoption of a resolution authorizing the City Manager to negotiate and execute an agreement with Medical Emergency Training System (METS) for paramedic training for the period February 1, 1995 to November 30, 1995, in the amount of \$88,000.**

**(City Manager's Office/Fire)**

**[Deferred from 12/13/94 - Item 13a(2)(3)(4)]**

Documents filed: (1) Memorandum from Budget Director Larry D. Lisenbee, dated December 7, 1994, recommending approval of said appropriation ordinance amendments. (2) Memoranda from Fire Chief Raymond Brooks, dated December 7,

1994, recommending the adoption of said resolutions.

Discussion/Action: The fourth amendment to said agreement with Emergency Care Information Center (ECIC) was approved; and Ordinance No. 24795, entitled: "An Ordinance of the Council of the City of San Jose amending Ordinance No. 24658 which Appropriates Moneys in the General Fund in the Amount of \$206,335, to Provide Funding for the Start Up Costs of a Paramedic Program; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption", and Resolution No. 65693, entitled: "A Resolution of the Council of the City of San Jose Delegating to the City Manager the Authority to Negotiate and Execute an Agreement with Medical Emergency Training Systems for Paramedic Training in an Amount Not to Exceed \$88,000", were adopted. Vote: 9-0-1-0-1. Absent: Fiscalini. Vacant: District 10.

- 6e(2) Adoption of a resolution granting the City of San Jose's conditional consent to the sublease of space in Terminal A and the addition between American Airlines, Inc., and Phoenix Leasing Corporation dba Reno Air Express. CEQA: ND. (Airport)**  
**[Deferred from 12/13/94 - Item 6e(3)]**

Documents filed: None.

Discussion/Action: This item was deferred to January 31, 1995.

- 6e(3) Approval of a continuation agreement to the hanger office space lease with Emery Worldwide Airlines, Inc., to extend the term on a month-to-month basis, from April 30, 1994 to April 30, 1996, with projected annual revenue to the City of \$2,400. CEQA: Exempt. (Airport)**

- 6e(3) (Cont'd.)**

Documents filed: Memorandum from Director of Aviation, Ralph G. Tonseth, dated December 21, 1994, recommending approval of said continuation agreement with Emery Worldwide Airlines, Inc.

Discussion/Action: The agreement with Emery Worldwide Airlines, Inc., was approved and its execution authorized. Vote: 9-0-1-0-1. Absent: Fiscalini. Vacant: District 10.

- 6e(4) (a) Approval of the Santa Clara County Operational Area Disaster Response and Recovery Organization Interim Agreement.**

- (b) **Request the Board of Supervisors of Santa Clara County to revise the existing ordinance defining the Operational Area under the old war emergency definition to reflect the all new hazards Operational Area concept to emergency management with full participation of all cities within the County and representation from special districts.**  
**(City Manager's Office)**

Documents filed: Memorandum from Director of Emergency Services, Frances E. Winslow, dated January 3, 1995, recommending approval of said agreement and authorization of said request to the Board of Supervisors.

Discussion/Action: The agreement was approved, its execution authorized, and authorization granted to request the Board of Supervisors to revise the existing ordinance to reflect the new hazards Operational Area concept. Vote: 9-0-1-0-1. Absent: Fiscalini. Vacant: District 10.

**6e(5) Approval of an employment agreement with Brian Bennert. (Diquisto)**

Documents filed: None.

Discussion/Action: The employment agreement with Brian Bennert was approved and its execution authorized. Vote: 9-0-1-0-1. Absent: Fiscalini. Vacant: District 10.

**6e(6) Approval of an employment agreement with Donald Cecil. (Fernandes)**

Documents filed: None.

**6e(6) (Cont'd.)**

Discussion/Action: The employment agreement with Donald Cecil was approved and its execution authorized. Vote: 9-0-1-0-1. Absent: Fiscalini. Vacant: District 10.

**6e(7) Approval of a grant agreement with Gardner Health Center, Inc., for remodeling of the Center facilities to meet new State of California standards, in the amount of \$175,000. CEQA: Exempt. (Neighborhood Services)**

Documents filed: Memorandum from Director of Neighborhood Services, George J. Penn, dated December 21, 1994, recommending approval of said agreement.

Discussion/Action: The agreement with Gardner Health Center, Inc., was approved and its execution authorized. Vote: 9-0-1-0-1. Absent: Fiscalini. Vacant: District 10.

- 6e(8) Approval of a second amendment to the lease agreement with Brandenburg Family Associates One, a California Limited Partnership, extending the term of the lease of 29,099 square feet of warehouse space located at 330 Terraine Street, for a period of 36 months, October 31, 1994 to October 31, 1997, at a cost of \$8,702.70 per month. (Public Works)**

Documents filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated December 21, 1994, recommending approval of a second amendment to said agreement.

Discussion/Action: The second amendment to said agreement with Brandenburg Family Associates One, was approved and its execution authorized. Vote: 9-0-1-0-1. Absent: Fiscalini. Vacant: District 10.

- 6e(9) Approval of the substitution of a subcontractor, Alpha Electrical Corporation, for the Almaden Pump Station Modifications Project. CEQA: Exempt. (Public Works)**

Documents filed: (1) Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated January 3, 1995, recommending approval of said subcontractor substitution. (2) Memorandum from City Attorney Joan R. Gallo, dated January 10, 1995, clarifying Staff memorandum with respect to the substitution of an MBE/WBE subcontractor.

- 6e(9) (Cont'd.)**

Discussion/Action: The substitution of Alpha Electrical Corporation for said project was approved and its execution authorized. Vote: 9-0-1-0-1. Absent: Fiscalini. Vacant: District 10.

- 6e(10) Adoption of a resolution authorizing the City Manager to negotiate and execute a joint use agreement with the San Jose Unified School District for the joint use of the Roller Blade Hockey Rink on school district property adjoining Roosevelt Park. CEQA: ND. (Public Works)**

Documents filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated January 10, 1995, recommending adoption of said resolution.

Discussion/Action: Council Member Pandori stated this item refers to the new roller blade outdoor rink being constructed adjacent to Roosevelt Park on property owned by San Jose Unified School District, that the facility is essentially complete and the City still needs to finalize the lease with the School District. He noted that in initial discussions with the school district, Staff asked for a penalty payment if the lease is

- terminated earlier than 20 years to reimburse the City for the cost of constructing the facility, and stated that from discussions with the school district, he thought this issue would present a problem in concluding the agreement, and pointed out that the school district has accommodated the City in the construction of the facility by providing the land at no costs. He explained the school district's concern which centers on the remote chance they may either sell the property in the next twenty years or add an element of the school to the campus, and stated the City would be sufficiently protected if the property were sold because it would have to go through a rezoning and the City would work with the developer on that facility. Regarding the issue of an elementary school at that location, Council Member Pandori advised that Barry Schimmel, Acting Superintendent, General Services, San Jose Unified School District, had assured him the school district would commit to an agreement in this lease that, if the school district were ever to put an elementary school on the San Jose High School campus, they would work with the City regarding its location and avoid building it at this location. Council Member Pandori pointed out that it is unlikely the school would locate a building next to a softball field on only 1/3 acre and stated the City's position is protected, and asked that Staff proceed with negotiations on this agreement with that direction in mind. Responding to an issue raised in the staff memo, he stated that 100% of the revenue from the operation of this facility would go to the City. Resolution No. 65694, entitled: "A Resolution of the Council of the City of San Jose Authorizing the City Manager to Negotiate and Execute an Agreement with San Jose Unified School District for Use of District Property for a Roller Hockey Rink", was adopted. Vote: 9-0-1-0-1. Absent: Fiscalini. Vacant: District 10.
- 6e(11) Approval of an employment agreement with Sandra E. Colindres. (Shirakawa, Jr.)**

Documents filed: None.

Discussion/Action: The employment agreement with Sandra E. Colindres was approved and its execution authorized. Vote: 9-0-1-0-1. Absent: Fiscalini. Vacant: District 10.

## **Routine Legislation**

- 6f(1) Adoption of an appropriation ordinance amendment and related revenue resolution amendment.**  
**[Redevelopment Agency referral 12/15/94 - Item 5d(3)]**

Documents filed: None.

Discussion/Action: This item was dropped from the agenda. Vote: 9-0-1-0-1. Absent: Fiscalini. Vacant: District 10.

- 6f(2) (a) Adoption of a resolution authorizing the City Attorney to negotiate and**



**execute a second amendment to an agreement with O'Melveny and Meyers for legal services relating to trade issues, increasing compensation to a total not to exceed \$97,000.**

- (b) Adoption of an appropriation amendment to increase the Non-Personal appropriation within the General Fund for the City Attorney by \$65,000 to provide contractual technical support to the City on trade issues. (City Manager's Office)**

Documents filed: (1) Memorandum from Budget Director, Larry D. Lisenbee, dated January 3, 1995, recommending adoption of said resolution and related appropriation ordinance amendments. (2) Memorandum from Mayor Hammer, dated December 20, 1994, recommending adoption of said resolution and related appropriation ordinance amendments.

Discussion/Action: Resolution No. 65695, entitled: "A Resolution of the Council of the City of San Jose Authorizing the City Attorney to Negotiate and Execute a Second Amendment with O'Melveny and Meyers", and Ordinance No. 24796, entitled: "An Ordinance of the Council of the City of San Jose amending Ordinance No. 24658 which Appropriates Moneys in the General Fund to Increase the Non-

**6f(2) (Cont'd.)**

Personal Appropriation to the City Attorney in the Amount of \$65,000, to Provide Contractual Technical Support to the City on Trade Issues; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption", was adopted. Vote: 9-0-1-0-1. Absent: Fiscalini. Vacant: District 10.

- 6f(3) (a) Adoption of a resolution authorizing the City Manager to negotiate and execute a grant agreement with the Smithsonian Associates for a one-time grant of \$5,000 to be used for the Smithsonian Events Series in San Jose.**
- (b) Adoption of appropriation ordinance amendments to transfer \$5,000 from the General Fund Personal Services appropriation for Council District 10 to a new City-wide appropriation to allow a one-time grant of funds to the Smithsonian Institution for the Smithsonian events in San Jose.**
- (City Manager's Office)**

Documents filed: Memorandum from Budget Director Lisenbee, dated January 3, 1995 recommending approval of said appropriation ordinance amendments.

Discussion/Action: Resolution No. 65696, entitled: "A Resolution of the Council of the City of San Jose Delegating to the City Manager the Authority to Negotiate and Execute an Agreement with the Smithsonian Associates for a Grant in an Amount Not to Exceed \$5,000 for the Smithsonian Events Series in San Jose", and Ordinance No. 24797, entitled: "An Ordinance of the Council of the City of San Jose amending

Ordinance No. 24658 which Appropriates Moneys in the General Fund to Transfer \$5,000 from the Personal Services Appropriation for Council District #10 to a New City-Wide Appropriation to Allow a One-Time Grant of Funds to the Smithsonian Institution for the Smithsonian Events in San Jose; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption”, was adopted. Vote: 9-0-1-0-1. Absent: Fiscalini. Vacant: District 10.

**6f(4) Adoption of appropriation ordinance and revenue resolution amendments in the Vehicle Maintenance and Operations Fund to rebudget \$125,000 of unexpended accelerated fire maintenance funds. (City Manager's Office/ General Services)**

Documents filed: Memorandum from Acting Director of General Services, Ellis M. Jones, Jr., and Budget Director, Larry D. Lisenbee, dated December 21, 1994, recommending adoption of said appropriation ordinance and related resolution amendments.

**6f(4) (Cont'd.)**

Discussion/Action: Ordinance No. 24798, entitled: “An Ordinance of the Council of the City of San Jose amending Ordinance No. 24658 which Appropriates Moneys in the Vehicle Maintenance and Operations Fund (Fund 552) to Rebudget \$125,000 of Unexpended Accelerated Fire Maintenance Funds; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption”, and Resolution No. 65697, entitled: “A Resolution of the Council of the City of San Jose Amending Revenue Resolution No. 65348 for the Fiscal Year 1994-95 to Adjust Revenues in the Vehicle Maintenance and Operations Fund (Fund 552)”, were adopted. Vote: 9-0-1-0-1. Absent: Fiscalini. Vacant: District 10.

**6f(5) Adoption of a resolution summarily vacating a 20-foot public service easement within the Catalonia Associates property, east side of Evans Lane, approximately 450 feet northerly of Canoas Garden Avenue. CEQA: ND. (Public Works)**

Documents filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated December 21, 1994, recommending adoption of said resolution.

Discussion/Action: Resolution No. 65698, entitled: “A Resolution of the Council of the City of San Jose Summarily Vacating a Public Service Easement, Located on the East Side of Evans Lane, Approximately 450 Feet Northerly of Canoas Garden Avenue”, was adopted. Vote: 9-0-1-0-1. Absent: Fiscalini. Vacant: District 10.

**6f(6) Adoption of a resolution establishing No Parking/Tow-Away Zones for one (1) day per month on both sides of certain streets located within Project Crackdown areas for the purpose of street sweeping. (Streets and Parks)**

Documents filed: Memorandum from Director of Streets and Parks, Wayne K. Tanda, dated December 21, 1994, recommending adoption of said resolution.

Discussion/Action: Resolution No. 65699, entitled: "A Resolution of the Council of the City of San Jose Establishing No Parking/Tow-Away Zones From 10:00 A.M. to 1:00 P.M. on One Day a Month on Certain Specified Streets", was adopted. Vote: 9-0-1-0-1. Absent: Fiscalini. Vacant: District 10.

## **END OF CONSENT CALENDAR**

### **COMMISSION, COMMITTEE, AND STANDING REPORTS**

#### **7c Report of the Housing and Community Services Committee - December 5, 1994**

Documents filed: The Housing and Community Services Committee report of December 5, 1994.

- (1) Consent Calendar
  - (a) Quarterly Housing Development Report. Attachments: Memorandum from Director of Housing, Alex Sanchez, dated November 29, 1994, transmitting said report.

The Committee accepted the report and directed Staff to return in the Spring with an overview of home ownership programs.

- (2) School-Linked Services Plan Status Report. Attachment: Memorandum from Director of Neighborhood Services, George J. Penn, dated November 14, 1994, transmitting three-month status report and listing of major accomplishments on the Plan to date from the Santa Clara Valley Health and Hospital System.

The Committee accepted the report and directed Staff to return in April or May, before the end of the school year, with an update.

- (3) Follow-Up Report on Neighborhood Development Center Mission & Goals

The Committee deferred this item to January 9, 1995.

- (4) Follow-Up Report on Recommendations regarding Taxi Rates. Attachments: Memorandum from Finance Director, John V. Guthrie, dated November 28, 1994, recommending the committee forward the following Staff recommendation for City Council approval: (1) Denial of Yellow Checker Cab Company's request for an approximately 11% increase in current taxicab rates, and (2) Direct Staff to implement procedures to review taxicab rates

biennially and recommend appropriate adjustments in rates following each biennial review.

The Committee accepted Staff recommendations with the exception that Staff return for an annual review of taxicab rates then begin the biennial review process and that criteria for basing an adjustment be developed.

**7c      Report of the Housing and Community Services Committee - December 5, 1994  
(Cont'd.)**

- (5) Progress Report on Police Response Training For Domestic Violence. Attach-ment: Memorandum from Police Chief Louis A. Cobarruviaz, dated October 22, 1994, providing a status report on the curriculum police officers receive in cultural diversity and domestic violence training, as directed by the Council on August 23, 1994.

The Committee accepted the report.

- (6) Fire Department Master Plan Progress Report. Attachment: Memorandum from Fire Chief Raymond Brooks, dated November 29, 1994, recommending that approval of \$75.00 to hire a consultant to assist the Fire Department with the development of a Fire Department Emergency Services Master Plan be referred to the FY 1994-95 Mid-Year Budget Review.

The Committee accepted the Staff recommendation.

- (7) High Speed Data Channel and Base Stations for Police and Fire Communications.

The Committee deferred this item to January 9, 1995.

- (8) Approval of 1995-96 Festival, Parade and Celebration Application and Guidelines. Attachment: Memorandum from Director of Convention, Cultural and Visitor Services, Ellen Oppenheim, dated November 22, 1994, recommending approval of revisions to the 1995-96 Festival, Parade and Celebration Grant Guidelines as described in this report.

The Committee approved the report and authorized sending the notification of letters of intent.

- (9) Committee Meeting Schedule and Work Plan Updates

The Committee approved the January 9, 1995 draft agenda as submitted with the authorization that Item 9 be left on and that Neighborhood Development Center Mission and Goals be added, and that an update from the Police Department on the curfew program be scheduled for the February agenda.

(10) Oral Petitions

There were none.

**7c Report of the Housing and Community Services Committee - December 5, 1994 (Cont'd.)**

(11) Adjournment

The meeting was adjourned at 2:58 p.m.

Discussion/Action: Upon motion by Council Member Powers, seconded by Council Member Shirakawa, Jr., and unanimously carried, the Committee report and actions of December 5, 1994 were accepted. Vote: 9-0-1-0-1. Absent: Fiscalini. Vacant: District 10.

**7d Report of the Finance Committee - December 14, 1994**

Documents filed: Finance Committee report of December 14, 1994.

(1) Oral Petitions

Gerald Norve asked the reason for Chair Joe Head's absence from the meeting. Vice-Chair Fernandes stated he was traveling on personal business.

- (2) Monthly Investment Report for October 1994. Attachment: Investment Report for October 1994.
- (3) Monthly Financial Report for October 1994. Attachment: Financial Report for October 1994..
- (4) Monthly Auditor's Report for October 1994. Attachment: Auditor's Report for October 1994.

The Committee accepted the reports.

- (5) Internal Investment Committee Minutes. Attachment: Memorandum from Finance Director John V. Guthrie, dated November 21, 1994, transmitting minutes of the November 10, 1994 meeting of the Internal Investment Committee.

The Committee accepted the report on the minutes of the November 10, 1994 Internal Investment Committee meeting.

- (6) Workers' Compensation Legal Representation. Attachment: Memorandum from City Attorney, Joan R. Gallo, dated December 9, 1994, making recommendations regarding Workers' Compensation Legal Representation.

**7d Report of the Finance Committee - December 14, 1994 (Cont'd.)**

- (6) Workers' Compensation Legal Representation (Cont'd.)

The Committee accepted the recommendation of the City Attorney's Office that there be a competitive process for selecting outside Workers' Compensation Counsel, to include a Request for Qualification (RFQ).

- (7) Status Report on Booking Fees. Attachment: Summary of Booking Fees and Booking Statistics prepared by the City Auditor.

The Committee accepted the report.

- (8) Update on Sales Tax Audit

The Committee deferred this item to January 11, 1995.

- (9) Program Budget - Pilot Program. Attachment: (1) Memorandum from Budget Director Lisenbee, dated November 4, 1994, recommending the Committee recommend that Council direct the Administration to conduct the pilot program budgeting project described therein during the 1995-96 budget process. (2) Report entitled: "*City of San Jose, Independent Auditors' Single Audit Reports and Corrective Action Plans Prepared by the City of San Jose for Year Ended June 30, 1994,*" dated October 14, 1994, prepared by KPMG, LLP.

The Committee accepted the report on the performance budgeting pilot project proposal and directed the Administration to conduct the project during the 1995-96 budget process.

- (10) Comments and Recommendations on the City's System of Internal Accounting Control

The Committee deferred this item to January 11, 1995.

- (11) Discussion and Recommendation on Hayes Mansion Phase II Financing Structuring Option. Attachment: Memorandum from Finance Director, John V. Guthrie, dated December 12, 1994, recommending direction to the City Administration and City Attorney's Office to develop a variable rate financing plan which attempts to mitigate interest rate risk and provides the lowest cost of funds, reporting back to the City Council in January 1995 with a financing

package for the Hayes Mansion Conference Center Phase II project.

**7d Report of the Finance Committee - December 14, 1994 (Cont'd.)**

- (11) Discussion and Recommendation on Hayes Mansion Phase II Financing Structuring Option (Cont'd.)

The Committee accepted the Staff recommendation to develop a variable rate financing plan which includes doing a further analysis of mitigating interest rate risk and provide the lowest cost of funds, and directed the Staff to report back to the Committee on January 25, 1995, with final details of this financing plan for reporting out at the January 31, 1995 Council meeting.

Discussion/Action: Finance Director Guthrie stated that Staff was authorized to proceed with a variable rate, but the Committee was uncomfortable with the up-side risk on a variable rate, and had agreed that Staff should bring back a recommendation for either a fixed or variable rate; if a fixed rate, the recommendation would aim for approximately 9%, otherwise, a variable option with protections would likely be proposed. Council Member Fernandes stated the recommendation is for direction that Staff explore both options and report back to the Committee on January 25, 1995, and noted that the Committee had sought advice from the Internal Investment Committee. Council Member Pandori stated it is appropriate for Staff to explore those options, but noted that in his opinion the fixed rate is the most conservative and the desirable course for the City. Regarding the program budget, he stated a recommendation will be forthcoming that programs in the budget be highlighted and ranked as to priority.

- (12) Municipal Golf Course - Review of Financial Controls. Attachment: Memorandum from Director of Convention, Cultural and Visitor Services, Ellen Oppenheim and Finance Director, John Guthrie, dated December 7, 1994, making recommending regarding review of financial controls at the Municipal Golf Course.

The Committee accepted the Staff recommendation directing the Administration to develop scope for and execute an audit agreement with an outside audit firm for reviewing the Municipal Golf Course contractor's cash handling and further directed the Administration to proceed with preparing a related appropriation request for approval by the City Council.

- (13) Status Report on Police Pre-Processing Center and Parole Offices. Attachment: Memorandum from Acting Deputy City Manager, Debra J. Figone, dated December 13, 1994, providing status report and recommendations regarding the Police Pre-Processing Center and Parole Offices.

**7d Report of the Finance Committee - December 14, 1994 (Cont'd.)**

**(13) Status Report on Police Pre-Processing Center and Parole Offices (Cont'd.)**

The Committee accepted the recommendations on the Police Department Pre-Processing Center including dropping the proposal to develop a co-location for the parole office because the Redevelopment Agency has reached an agreement with the State to lease an alternative site for this office.

Discussion/Action: See Item 9b for Council action taken.

**(14) Committee Schedule**

There was no discussion.

**(15) Adjournment**

The meeting was adjourned at 12:05 p.m.

Discussion/Action: Upon motion by Council Member Fernandes, seconded by Council Member Johnson, and unanimously carried, the Committee report and actions of December 14, 1994, were accepted, with Council's comments and direction on Item 7d(11) taken into consideration, and action on Item 7d(13) taken under Item 9b. Vote: 9-0-1-0-1. Absent: Fiscalini. Vacant: District 10.

**7e Report of the Environment Committee - December 14, 1994**

Documents filed: Environment Committee report dated December 14, 1994.

**(1) The Consent Calendar**

There were no items on the Consent Calendar.

**(2) Wastewater Flow Reduction Status Report and Recommendations. Attachments: Memorandum from Environmental Services Director Garcia, dated December 6, 1994 recommending Council: (1) Adopt the report and recommendations on San Jose's Wastewater Flow Reduction Program, (2) Approve expanded use of existing City-wide funds to increase flow reduction, with fund balance carried over year-to-year until Phase I of the water reclamation project is complete, (3) Recommend to the Treatment Plant Advisory Committee that the Financial Incentives Program be offered through-out the entire tributary area and tributary agencies contribute proportionately for the program, and (4) Direct the Administration to report results to Council in the fall of 1995.**

**7e Report of the Environment Committee - December 14, 1994 (Cont'd.)**



- (2) Wastewater Flow Reduction Status Report and Recommendations (Cont'd.)

The Committee accepted the Staff recommendations.

- (3) Report on Street Sweeping Parking Enforcement. Attachment: Memorandum from Director of Streets and Parks, Wayne K. Tanda, dated November 21, 1994, recommending the Committee support the continued use of modified sweeps by Resident Street Sweeping Program (RSS), permanent "No Parking, Tow-Away" signs in the Lanai-Cunningham, Poco Way, and Santee Project Crackdown neighborhoods, consideration of permanent signs in additional neighborhoods as deemed warranted, and continued public relations efforts by RSS vendors.

The Committee approved the Staff recommendations with consideration of Committee comments.

- (4) Committee Meeting Schedule and Workshop Updates

The Committee announced this was the last meeting of the Environment Committee as a separate committee.

- (5) Oral Petitions

There were none.

- (6) Adjournment

The Committee adjourned at 3:33 p.m.

Discussion/Action: Bill Kumagai addressed Council regarding early set out yard waste regulations. Council Member Johnson noted for the record, this would be the last report from the Environment Committee, which is being merged with the Transportation and Development Committee. Upon motion by Council Member Johnson, seconded by Council Member Fernandes, and unanimously carried, the Committee report and actions of December 14, 1994, were accepted.

**7f Report of the Transportation and Development Committee - December 8, 1994**

Documents filed: Transportation and Development Committee report of December 8, 1994.

**7f Report of the Transportation and Development Committee - December 8, 1994 (Cont'd.)**

- (1) Consent Calendar

There were no Consent Calendar Items.

- (2) Report Regarding Hensley Historic District Costs to Implement Revitalization Actions. Attachment: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated December 2, 1994, reporting on the Revitalization Strategy.

The Committee accepted the Hensley Historic District Report.

- (3) Recommendation Regarding Preferred Alignment for the Vasona Corridor Downtown San Jose Planning Study. Attachments: (1) Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated December 1, 1994, recommending that the Council endorse the Southern Pacific/Santa Clara/Delmas Alignment as the preferred alternative in the upcoming Vasona Corridor Environmental Impact Statement analysis for service to Downtown San Jose. (2) Memorandum from the San Jose Arena Authority, dated December 8, 1994, transmitting correspondence from the San Jose Arena Management Corporation to the Santa Clara County Transportation Agency and accompanying consultant's report, and requesting the Committee direct the Staff to include the SJAMC's evaluation in its analysis of the alternatives for the extension project.

The Committee accepted this item for discussion.

- (4) Status Report Regarding Americans with Disabilities Act Accessibility (ADA) Requirements for Rail Corridors in Downtown San Jose. Attachments: (1) Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated November 23, 1994, transmitting the Status Report on the ADA accessibility requirements for light rail vehicle in downtown San Jose. (2) Memorandum from City Attorney Joan R. Gallo, dated November 28, 1994, clarifying requirements imposed by the ADA on proposed Tasman light rail corridor.

The Committee referred this item for further study.

- (5) Report on Santa Clara County Transportation Agency's Request for Advertisement on Bus Shelters. Attachments: (1) Memorandum from City Attorney Joan R. Gallo, dated December 1, 1994, reporting on the status of negotiations with the Transit District with regard to its bus shelter advertising

7f

**Report of the Transportation and Development Committee - December 8, 1994 (Cont'd.)**

- (5) Report on Santa Clara County Transportation Agency's Request for Advertisement on Bus Shelters (Cont'd.)

proposal. (2) Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated December 1, 1994, reporting on follow-up actions to Council

direction on November 10, 1994 for staff from the Planning and Public Works Departments and the City Attorney's Office to meet with County representatives to discuss the outstanding issues and address questions raised by Committee members.

The Committee directed the Administration to report back in February instead of January with an update to the Committee.

- (6) Report Regarding the Median Island Landscape Program. Attachment: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated November 8, 1994, recommending Council (1) Approve the basic five-year Median Island Landscape Program as originally presented at the October 13, 1994, Transportation and Development Committee meeting, and (2) Consider other funding sources, such as the traffic program, for those median island sites that have high importance for landscaping, but are not on the five-year recommended priority list of proposed median island landscape projects.

The Committee accepted the Staff recommendations, including the third recommendation and directed Staff to report back with a workplan.

- (7) Information Regarding Candidate Traffic Improvement Projects for the Next Programming Cycle of State and Federal Funding

This item was heard by Council on December 13, 1994.

- (8) Discussion and Recommendation Regarding Non-Industrial Uses in Industrial Areas. Attachments: (1) Memorandum from Director of Planning, Gary F. Schoennauer, dated November 23, 1994, recommending that the Committee recommend to the Council the following modifications to the Church Location Policy (6-21) and the City Council Policy on the Guidelines for Child Day Care (6-14), and the Transportation and Development Committee recommend to the City Council that the modifications listed therein to General Plan Policies be referred to the Administration to include in the 1995 Annual Review. (2) Information memorandum from Redevelopment Agency Executive

**7f Report of the Transportation and Development Committee - December 8, 1994 (Cont'd.)**

- (8) Discussion and Recommendation Regarding Non-Industrial Uses in Industrial Areas (Cont'd.)

Director, Frank Taylor, dated January 5, 1995, regarding the Preservation of Industrial Redevelopment Areas. (3) Memorandum from Mayor Hammer and Council Members Fernandes, Powers and Shirakawa, dated January 9, 1995, recommending Council (a) Direct the Transportation, Development and

Environment Committee to develop a Council Policy that establishes guidelines for the evaluation of all non-industrial uses in industrial areas, (b) Defer action on the Transportation, Development and Environment Committee's recommendations regarding the Church Location Policy and the Guidelines for Child Day Care until a new policy is adopted, and refer the proposed General Plan modifications to the Administration for inclusion in 1995 Annual Review; and (c) Develop procedures that assist uses discouraged from locating in industrial areas to find appropriate sites elsewhere in the City. (4) Undated fax from Kim Whitt of Truex Associates opposing the proposal.

The Committee approved the Staff report and recommended the consensus to the Council. (See Partial Transportation and Development Committee Report of December 8, 1994, filed in City Council Minutes of December 13, 1994.)

Discussion/Action: Mayor Hammer reported on the recommendations in the memorandum she co-authored with Council Members Fernandes, Powers and Shirakawa, dated January 9, 1995. She stated it is the City's responsibility to work with applicants to find suitable sites in non-industrial areas and a comprehensive approach is needed to address these uses and preserving the land set aside for economic development must continue to be a priority with the City, that criteria must be established, including that those uses be job and revenue generating, and co-exist and not impede existing businesses from operating or expanding. She stated it was important to involve non-industrial users in the process, and recommended approval of the referenced recommendation. Pastor Peter Wilkes, South Hills Community Church, addressed the Council in support of the referral of the issue back to the Committee to give the churches more time to interact with the City Council and Administration. Gary Burke, Santa Clara County Manufacturers Group, addressed the Council in support of the recommendation. Council Member Fernandes moved approval of the recommendation dated January 9, 1995. Council Member Powers seconded the motion. Council Member Powers stressed the City

**7f                    Report of the Transportation and Development Committee - December 8, 1994 (Cont'd.)**

- (8)      Discussion and Recommendation Regarding Non-Industrial Uses in Industrial Areas (Cont'd.)

needs to be proactive in assisting non-industrial users to find appropriate sites. Council Member Woody inquired about the timeline for this issue, and stated the need for a clear statement of industrial uses criteria as quickly as possible because of job and revenue impacts, while still allowing for community interaction. Council Member Fernandes stated this item can be discussed at the first Committee meeting of the year. Council Member Diaz stated his

support for proceeding with the process promptly. Upon the call for the question, the motion was unanimously carried, and the Council directed the Transportation, Development and Environment Committee to develop a Council Policy that establishes guidelines for the evaluation of non-industrial uses in industrial areas; deferred action on the Transportation & Development Committee's recommendations regarding the Church Location Policy and the Guidelines for Child Day Care until the new policy is adopted; referred the proposed General Plan modifications to the Administration for inclusion in 1995 Annual Review; and directed the development of procedures that assist uses discouraged from locating in industrial areas to find appropriate sites elsewhere in the City, as detailed in the memorandum dated January 9, 1995, by Mayor Hammer and Council Member Fernandes, Powers and Shirakawa. Vote: 9-0-1-0-1. Absent: Fiscalini. Vacant: District 10.

- (9) Evaluation of Sign Ordinance to Determine Need for Additional Flexibility with Regard to Replacement of Legal Non-Conforming Signs. Attachment: Memorandum from Director of Planning, Gary J. Schoennauer, dated November 9, 1994, reporting Staff's evaluation, pursuant to Council direction of June 14, 1994.

The Committee accepted the report.

- (10) Approval of Highway 17/880 SMART Corridor Feasibility Study Recommendation. Attachment: Memorandum from Director of Streets and Parks, Wayne K. Tanda, dated December 1, 1994, recommending that Council approve the Final Highway 17/880 SMART Corridor Feasibility Study and direct Staff to report back to the Transportation and Development Committee on funding and staffing requirements after the California Transportation Commission's action on the City's request for TSM funding.

**7f Report of the Transportation and Development Committee - December 8, 1994 (Cont'd.)**

- (10) Approval of Highway 17/880 SMART Corridor Feasibility Study Recommendation (Cont'd.)

The Committee approved the study and directed Staff report back to the Committee after the Commission's actions on funding and staffing requirements.

- (11) Report and Recommendation Regarding Prescott Avenue Closure. Attachment: Memorandum from Director of Streets and Parks, Wayne K. Tanda, dated November 22, 1994, recommending that Prescott Avenue remain closed with a temporary barricade through the rest of the fiscal year, and a permanent closure design and funding source for the improvements be considered in the

1995-96 list of projects in the Capital Improvement Program.

The Committee approved the Staff report and recommendation.

- (12) Committee Schedule
  - a. Recommendation to cancel the December 22, 1994 T&D meeting.

The Committee accepted the recommendation.

- (13) Oral Petitions

There were none.

- (14) Adjournment

The Committee adjourned at 3:30 p.m.

Discussion/Action: Upon motion by Council Member Johnson, seconded by Council Member Powers, and unanimously carried, the Committee report and actions of Fernandes, the Committee report and actions of December 8, 1994, were accepted. Vote: 9-0-1-0-1. Absent: Fiscalini. Vacant: District 10.

## LAND USE AND DEVELOPMENT

- 8a PUBLIC HEARING ON PLANNED DEVELOPMENT REZONING of the property located on the west side of Senter Road, 650 feet northerly of Burke Street, from M-4 to A(PD), to allow governmental uses or those uses permitted by right and conditional uses in the M-1 and M-4 Manufacturing Districts on 4.62 gross acres and those uses permitted by right and conditional uses in the M-1 Manufacturing District on 2.69 gross acres (DDD Partners/Union Pacific Railroad, Owner; Devcon Construction, Inc., Developer). CEQA: ND. PDC 94-09-038 - District 7**

Documents filed: (1) Memorandum from the Planning Commission dated December 21, 1994, recommending approval of the subject rezoning with the condition that the project plans be revised to include conditions 1, 2 and 3 as described in the Public Works Department Staff report (5-1-0-1: Lezotte opposed and Madrid abstained). (2) Proof of publication of notice of public hearing submitted by the City Clerk. (3) Affidavit of mailing submitted by the City Clerk.

Discussion/Action: Mayor Hammer opened the public hearing. There was no discussion from the floor, and upon motion by Council Member Shirakawa, seconded by Council Member Fiscalini, and unanimously carried, the public hearing was closed, and Ordinance No. 24799, entitled: "An Ordinance of the City of San Jose Rezoning Certain Real Property Situate on the West Side of Senter Road, 650 Feet Northerly of Burke Street", was passed for publication. Vote: 9-0-1-0-1. Absent: Fiscalini. Vacant: District 10.

- 8b PUBLIC HEARING ON APPEAL OF THE DENIAL of the Conditional Use Permit for an approximately 125 square-foot drive-through retail use on a 6.15 gross acre site in the C-3 Commercial Zoning District located at the northwesterly corner of Saratoga Avenue and Prospect Road (Joseph P. Franco, Owner; Caffino, Inc., Developer). CEQA: Exempt.  
CP 94-07-053 - District 1**

Documents filed: None.

Discussion/Action: This item was continued to January 24, 1995.

## **GENERAL GOVERNMENT**

- 9a Approval of an ordinance amending Parts 1 and 2 of Chapter 15.12 of Title 15 of the San Jose Municipal Code relating to Sewer Use Permits, including approval of new definitions and new requirements for the discharge of industrial waste to the sanitary sewer system. (City Attorney's Office)  
(Deferred from 11/29/94 and 12/6/94 - Item 9e)**

Documents filed: (1) Memorandum from City Attorney, Joan R. Gallo, dated January 6, 1995, recommending (a) Approval of an Ordinance amending Chapter 15.12 of Title 15 of the San Jose Municipal Code relating to sewer use permits; (b) Direct Staff to develop a workplan and cost estimate, before the end of the 1994-95 fiscal year, on a plan for implementation of a Nickel Initiative Program, for four industrial dischargers, as outlined in the report entitled, "*Pollution Prevention Strategy for A Clean Bay, Including Proposed Local Limits for Copper, Nickel, and Cyanide.*" (c) Direct Staff to report back to the Council in (18) months concerning implementation of the Ordinance and recommending any necessary revisions. (2) Memorandum from City Attorney, Joan R. Gallo, dated January 9, 1995, submitting attachments to the Staff report dated January 6, 1995. (3) Memorandum from City Attorney Gallo dated January 12, 1995, submitting correspondence regarding this issue from Northern California Chapter of the Association of Metal Finishers, the Santa Clara Manufac-

turing Group, IBM Corporation, Hewlett-Packard Company, National Semiconductor Corporation, San Jose Metropolitan Chamber of Commerce, Santa Clara Plating Company, Inc., Conner Peripherals, Eisenberg, Olivieri & Associates, Highland Metals, Litton Applied Technology, Zycon Corporation, Dupont Electronic Materials, California Regional Water Quality Control Board, San Francisco Bay Region; and Citizens for a Better Environment.

Discussion/Action: Greg Karras, Citizens for a Better Environment, addressed the Council regarding several concerns and in support of the pilot program. Ken Hyland, Highland Metals, addressed Council regarding the impact of increased testing requirements on small businesses. Mayor Hammer requested that Staff from Environmental Services meet with Mr. Hyland for further review of his concerns. Council Member Diquisto expressed concerns about this issue and requested assurance from Staff that the ordinance would not impose those kinds of requirements on businesses. Senior Deputy City Attorney, Mollie Dent, responded that this comment was received from other dischargers, and the table of responses submitted with the Staff report indicates that the ordinance only spells out the limit which must be met and not the test time period, and the Director of Environmental Services will recommend for adoption before July 1995 regulations which will specify appropriate testing intervals for different types of dischargers. Elizabeth Zimmerman, Santa Clara County Manufacturing Group, spoke in support of the ordinance, highlighted four concerns, and

**9a (Cont'd.)**

requested the opportunity to work with the Staff on formulation of the regulations. Council Member Johnson requested Staff keep the Council apprised of the details relative to regulations as they are developed. Upon motion by Council Member Johnson, seconded by Council Member Powers, and unanimously carried, the Staff recommendations dated January 6, 1995, were approved, directing the Administration to develop said workplan and cost estimate and report back to the Council in eighteen months as described, and Ordinance No. 24800, entitled: "An Ordinance of the City of San Jose Repealing Parts 1 and 2 of Chapter 15.12 of Title 15 of the San Jose Municipal Code and Adopting a New Chapter 15.14 Relating to Sewer Use and Sewer Use Permits, Including Adoption of New Definitions and New Requirements for the Discharge of Industrial Waste to the Sanitary Sewer System", was passed for publication. Vote: 9-0-1-0-1. Absent: Fiscalini. Vacant: District 10.

- 9b**
- (1) Status report on Police Pre-Processing Center and Parole Offices.**
  - (2) Adoption of appropriation ordinance amendments in the General Fund to provide \$100,000 for consultant and design services for the Police Department Pre-Processing Center.**
- [Finance Committee referral 12/14/94 - Item 7d(13)]**

Documents filed: (1) Memorandum from Deputy City Manager, Debra J. Figone,



dated January 6, 1995, transmitting the Supplemental report on Pre-Processing Center. (2) Memorandum from Budget Director, Larry D. Lisenbee, dated January 6, 1995, recommending adoption of said appropriation ordinance amendments.

Discussion/Action: Upon motion by Council Member Johnson, seconded by Council Member Shirakawa, and unanimously carried, Ordinance No. 24793, entitled: "An Ordinance of the Council of the City of San Jose amending Ordinance No. 24658 which Appropriates Moneys in the General Fund in the Amount of \$100,000, to Provide Consultant and Design Services for the Police Department Pre-Processing Center Project; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption", was adopted. Vote: 9-0-1-0-1. Absent: Fiscalini. Vacant: District 10.

**9c      Appointment of Council Member Diquisto as Council Liaison to the Deferred Compensation Advisory Committee. (Mayor)**

Documents filed: Memorandum from Mayor Hammer, dated January 10, 1995, recommending said appointment.

**9c      (Cont'd.)**

Discussion/Action: The appointment of Council Member Diquisto as Council Liaison to the Deferred Compensation Advisory Committee was approved.

**9d      Discussion and direction regarding the implementation of SB 302 and SB 1779, allowing the City to recover the costs for graffiti clean-up and enforcement. (Pandori)**

Documents filed: Memorandum from Council Member Pandori, dated December 20, 1994, recommending that Council: (1) Direct the City Administration and City Attorney work with the District Attorney, Probation Department and appropriate agencies to develop the appropriate ordinances and procedures to implement provisions of SB 302 and SB 1779; (2) Develop a timeline for the implementation of the needed ordinances and procedures no later than the beginning of the next fiscal year--July 1, 1995; (3) Once implemented, develop a reporting system to judge the effectiveness of the state laws and local procedures, and present a status report to the Council after one year to determine the effectiveness of the program; and (4) Direct that any funds recovered under these laws be used for graffiti clean-up and enforcement.

Discussion/Action: Council Member Pandori presented the recommendations in his memorandum regarding recouping graffiti clean-up costs utilizing facilitation features of SB 302 and SB 1779, reporting that over \$600,000 was spent in the last fiscal year for graffiti abatement, approximately \$2,500 was recovered for clean-up costs, and advised the two Senate Bills require that cities adopt local laws to implement the pro-

visions of the State laws, which will allow for clean-up costs as well as enforcement costs, and has the potential to greatly simplify the process, and moved approval of the recommendations. Council Member Shirakawa seconded the motion. Council Member Johnson stated the City will have to provide data and cost information in order to implement requirements of the laws, and asked the City Attorney if the data required was per incident or over a period of time. City Attorney Gallo responded that options and alternatives would be included in the report back from her Office after review of the bills. Upon the call for the question, the motion by Council Member Pandori was unanimously carried, and his recommendations dated December 20, 1994, were approved. Vote: 9-0-1-0-1. Absent: Fiscalini. Vacant: District 10.

- 9e      Adoption of a resolution authorizing the permanent closure of Prescott Avenue at Camden Avenue.  
[Transportation & Development Committee referral 12/8/94 - Item 7f(11)]**

**9e      Documents filed: See Item 7f(11) for documents filed.  
(Cont'd.)**

Discussion/Action: Upon motion by Council Member Diquisto, seconded by Council Member Johnson, and unanimously carried, Resolution No. 65700, entitled: "A Resolution of the Council of the City of San Jose Authorizing the Permanent Closure of Prescott Avenue at Camden Avenue", was adopted. Vote: 9-0-1-0-1. Absent: Fiscalini. Vacant: District 10.

- 9f      Emergency action to adopt a resolution ratifying the proclamation of existence of a local emergency issued by the Director of Emergency Services and further proclaiming the continued existence of the emergency. (City Attorney's Office)  
(Orders of the Day 4a)**

Documents filed: None.

Discussion/Action: Mayor Hammer announced that at approximately 8:20 p.m. on January 9, 1995, the Office of Emergency Services was opened because of flooding impacts of the City, and at 1:30 a.m. on January 10, 1995, the City Manager declared a Level Three State of Emergency, and all resources of the City are being deployed to respond to flooding and the potential of another expected storm. Upon motion by Council Member Johnson, seconded by Council Member Powers, and unanimously carried, findings were made that emergency conditions arose subsequent to the posting of the agenda, and Resolution No. 65701, entitled: "A Resolution of the Council of the City of San Jose Ratifying the Proclamation of Existence of a Local Emergency Issued by the Director of Emergency Services and Further Proclaiming the Continued Existence of the Emergency", was adopted. Vote: 9-0-1-0-1. Absent: Fiscalini. Vacant: District 10.

## **FISCAL AFFAIRS**

### **10a PUBLIC HEARING and adoption of a resolution setting Special Assessments for unpaid Recycle Plus garbage bills. (Finance)**

Documents filed: (1) Memorandum from Director of Finance, John V. Guthrie, dated December 20, 1994, recommending adoption of a resolution which confirms the report of the Director of Finance concerning unpaid Recycle Plus! bills for the billing periods February 8, 1994 through May 31, 1994, that remain unpaid as of January 17, 1995,

### **10a (Cont'd.)**

and direct the Director of Finance to place a Special Assessment against the Property secured by a lien with the Santa Clara County Recorder's Office. (2) Supplemental memorandum from Director of Finance, John V. Guthrie, dated January 9, 1995, reporting on an Administrative Hearing at the offices of Utility Billing Services January 4, 1995, to review issues related to the Notice of Intent to Lien dated December 14, 1994, and attended by Tam Cong Huynh, Alan Lynn, Javad Doristi, and Herbert Gumaer. (3) Affidavit of Mailing submitted by the City Clerk.

Discussion/Action: Upon motion by Council Member Johnson, seconded by Council Member Fernandes, and unanimously carried, Resolution No. 65702, entitled: "A Resolution of the Council of the City of San Jose Setting a Special Assessment for Certain Unpaid Recycle Plus Garbage Bills", was adopted. Vote: 9-0-1-0-1. Absent: Fiscalini. Vacant: District 10.

## **ORAL COMMUNICATIONS**

- (1) Rodrigo-Roy V. Hernandez, Chief Executive Officer, Santa Clara Valley Athletic Association, addressed the Council on the need for a multi-field softball complex.
- (2) Lawrence P. Anthony addressed the Council regarding a Utility Billing Systems issue. Mayor Hammer requested the Administration to meet with Mr. Anthony to resolve the issue in question.

## **CLOSED SESSION REPORT**

City Attorney Gallo reported the following Closed Session actions of January 10, 1995:

A. Pending Litigation - Settlements Authorized:

1. Case Name: Burroughs v. City

Substance of Settlement: Approval of settlement of action in the amount of \$60,000.

Council Vote: 9-0-1-0-1.

Ayes: Diaz, Diquisto, Fernandes, Johnson, Pandori, Powers, Shirakawa, Woody; Hammer.

Noes: None.

Absent: Frank Fiscalini

Disqualified: None.

Vacant: District 10

**CLOSED SESSION REPORT**

B. Authority to Enter A Litigation Case as Amicus Curiae:

1. Case Name: Ilana Love v. City of Monterey, et al.

Adverse party or parties: Ilana Love

Substance of litigation: The case challenges the City of Monterey in relation to the current scheme adopted by the California legislature for collecting fines for parking violations.

Council Vote: 9-0-1-0-1.

Ayes: Diaz, Diquisto, Fernandes, Johnson, Pandori, Powers, Shirakawa, Woody; Hammer.

Noes: None.

Absent: Frank Fiscalini

Disqualified: None.

Vacant: District 10

**ADJOURNMENT**

The Council of the City of San Jose adjourned at 3:16 p.m. in memory of Claude Diridon, Southern Pacific brakeman for 38 years and father of Supervisor Rod Diridon; in memory of Howard Overhouse, Retired Fire Inspector for the City of San Jose for 40 years; in memory of Joe Bermudez, a Maintenance Worker II, in the Department of Streets and Parks who worked for the City of San Jose for 17 years; and in memory of Charlotte Barnes, mother of Susan Arpan.

**SUSAN HAMMER, MAYOR**

**ATTEST:**

**PATRICIA L. O'HEARN  
CITY CLERK**

**DC/1/10/95**